

ASSEMBLY BILL

No. 1320

Introduced by Assembly Member Allen

February 18, 2011

An act to amend Sections 20814 and 20816 of, and to add Sections 20814.5 and 31453.7 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as introduced, Allen. Public employees' retirement: employer contribution rates.

(1) The Public Employees' Retirement Law prescribes employer contribution rates to the retirement fund for the Public Employees' Retirement System. Existing law requires that the state's contribution rate be adjusted in the Budget Act based on rates established by the system's actuary. Existing law provides that the employer contribution rate for an employer other than the state shall be determined on an annual basis by the actuary, as specified. Existing law requires that the rate at which a public employer contributes to the system shall be based upon its experience, and not the experience of public agency employers generally. Existing law requires that all assets of an employer in the system be used to determine the employer's contribution rate.

This bill would establish in the retirement fund for each employer a Taxpayer Adverse Risk Prevention Account. The account would be an employer asset, but would not be counted as an asset for the purpose of determining the employer's contribution rate. Deposits into the account would be made with all or a portion of employer contributions when the actuarial value of assets exceeds the present value of benefits, as specified. The bill would provide that the assets of the account would

be drawn upon to pay a portion of the employer contribution when the employer contribution rate is greater than the normal cost of benefits, as specified. The bill would provide that the employer contribution rate may be reduced, pursuant to a specified formula, when the employer's Taxpayer Adverse Risk Prevention Account exceeds an amount equal to 50% of the employer's assets, exclusive of the assets in the Taxpayer Adverse Risk Prevention Account. The bill would permit assets in an account to be used for specified transfers and contributions authorized under existing law. The bill would provide that assets in an account would be invested with other system assets.

(2) The County Employees Retirement Law of 1937 authorizes the board of retirement to determine county or district contributions on the basis of a normal contribution rate, which is computed as a level percentage of compensation which, when applied to future compensation of the average new member entering the system, together with member contributions, is sufficient to provide for the payment of all prospective benefits of a member.

This bill would establish in each county or district's retirement fund a Taxpayer Adverse Risk Prevention Account. The account would be an employer asset, for that county or district, but would not be counted as an asset for the purpose of determining the employer's contribution rate. Deposits into the account would be made with all or a portion of employer contributions when the actuarial value of assets exceeds the present value of benefits, as specified. The bill would provide that the assets of the account would be drawn upon to pay a portion of the employer contribution when the employer contribution rate is greater than the normal cost of benefits, as specified. The bill would provide that the employer contribution rate may be reduced, pursuant to a specified formula, when the employer's Taxpayer Adverse Risk Prevention Account exceeds an amount equal to 50% of the employer's assets, exclusive of the assets in a Taxpayer Adverse Risk Prevention Account. The bill would permit assets in an account to be used for other specified contributions. The bill would provide that assets in an account would be invested with other system's assets.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 20814 of the Government Code is amended to read:

20814. (a) Notwithstanding any other provision of law, the state's contribution under this chapter shall be adjusted from time to time in the annual Budget Act according to the following method. As part of the proposed budget submitted pursuant to Section 12 of Article IV of the California Constitution, the Governor shall include the contribution rates submitted by the actuary of the liability for benefits on account of employees of the ~~state~~. *state, as adjusted pursuant to Section 20814.5.* The Legislature shall adopt the actuary's contribution rates and authorize the appropriation in the Budget Act.

(b) The employer contribution rates for all other public employers under this system shall be determined on an annual basis by the ~~actuary~~ *actuary, adjusted pursuant to Section 20814.5,* and shall be effective on the July 1 following notice of a change in rate.

SEC. 2. Section 20814.5 is added to the Government Code, to read:

20814.5. (a) For the purposes of this section, the following definitions apply:

(1) "Actual employer contribution rate" means the actual rate to be paid by the employer as a result of adjustments made pursuant to subdivision (b) to the employer contribution rate by the actuary.

(2) "Employer contribution rate" means a rate for payment of the total employer contribution, as determined by the actuary according to the most recently completed valuation of the total liability for the benefits on the account of the employees of the employer.

(3) "Normal cost of benefits" means a rate for payment of normal cost, as determined by the actuary according to the most recently completed valuation.

(b) Notwithstanding any other provision of law, the employer contribution rate shall be adjusted according to the following:

(1) If the employer contribution rate is greater than the normal cost of benefits, then the actual employer contribution rate shall be a rate, not less than the normal cost of benefits, and sufficient, when combined with assets transferred from the Taxpayer Adverse

1 Risk Prevention Account established pursuant to subdivision (c),
2 to equal the employer contribution rate.

3 (2) Except as provided in subdivision (d), if the employer
4 contribution rate is less than the normal cost of benefits, the actual
5 employer contribution rate shall be equal to the normal cost of
6 benefits.

7 (c) For the purposes of subdivision (b), a separate account shall
8 be established for each employer in the retirement fund to be
9 known as a Taxpayer Adverse Risk Prevention Account.

10 (1) A Taxpayer Adverse Risk Prevention Account is an
11 employer asset, but shall not be counted as part of employer assets
12 for purposes of determining the employer contribution rate.

13 (2) Deposits to a Taxpayer Adverse Risk Prevention Account
14 shall be made with all or a portion of the actual employer
15 contribution rate in excess of the employer contribution rate when
16 the actuarial value of assets exceed the present value of benefits
17 as determined by the chief actuary, according to the most recently
18 completed annual valuation.

19 (3) A Taxpayer Adverse Risk Prevention Account shall be drawn
20 from to pay for that portion of the employer contribution rate that
21 exceeds the actual employer contribution rate, pursuant to
22 paragraph (1) of subdivision (b).

23 (4) The funds in a Taxpayer Adverse Risk Prevention Account
24 may be used to pay for employee contributions picked up by an
25 employer pursuant to Section 414(h)(2) of the Internal Revenue
26 Code (26 U.S.C. Sec. 414).

27 (5) The funds in a Taxpayer Adverse Risk Prevention Account
28 may be used to make asset transfers pursuant to Section 20816.

29 (6) The funds in a Taxpayer Adverse Risk Prevention Account
30 may be used to reduce any contributions authorized under Section
31 20820.

32 (7) The funds in Taxpayer Adverse Risk Prevention Accounts
33 shall be invested with other assets of the system.

34 (d) Notwithstanding paragraph (2) of subdivision (b), an actual
35 employer contribution rate may be reduced below a rate equal to
36 100 percent of the normal cost of benefits, as specified in paragraph
37 (2) of subdivision (b), pursuant to a formula determined by the
38 actuary when that employer's Taxpayer Adverse Risk Prevention
39 Account exceeds an amount equal to 50 percent of the employer
40 assets, other than the assets in the Taxpayer Adverse Risk

1 Prevention Account. That reduction in the actual employer
2 contribution rate shall be reevaluated annually by the actuary. The
3 actual employer contribution rate may be increased when the excess
4 of funds in the employer's Taxpayer Adverse Risk Prevention
5 Account no longer exceeds an amount equal to 50 percent of the
6 employer assets, other than the assets in the Taxpayer Adverse
7 Risk Prevention Account.

8 SEC. 3. Section 20816 of the Government Code is amended
9 to read:

10 20816. (a) Notwithstanding any other provision of this part,
11 all assets of an ~~employer~~ *employer, other than the assets in a*
12 *Taxpayer Adverse Risk Prevention Account established pursuant*
13 *to Section 20814.5*, shall be used in the determination of the
14 employer contribution rate for the membership comprising the
15 basis of the computation. Assets held shall be recognized over the
16 same funding period used to amortize unfunded accrued actuarial
17 obligations, whether in excess of the accrued actuarial obligation
18 or not, using the entry age normal funding method.

19 (b) On and after January 1, 1999, contracting agencies for which
20 the actuarial value of assets exceeds the present value of benefits
21 as of the most recently completed valuation, as determined by the
22 chief actuary, may request that the board transfer employer assets
23 to member-accumulated contribution accounts to satisfy all or a
24 portion of the member contributions required by this part. That
25 transfer shall be over a 12-month period provided the actuarial
26 value of assets exceeds the present value of benefits. In determining
27 the present value of benefits and the actuarial value of assets for
28 purposes of this part, liabilities and assets attributed to the 1959
29 survivor allowance may not be included. On and after January 1,
30 2003, a transfer of assets may not be made pursuant to this
31 subdivision unless all or the same portion of the member
32 contributions of each member in a membership classification are
33 satisfied through the transfer. An employer electing a transfer of
34 assets pursuant to this subdivision shall satisfy the members'
35 contributions for a period of not less than one month and not more
36 than one year.

37 (c) On and after January 1, 2002, any contracting agency for
38 which the actuarial value of assets exceeds the present value of
39 benefits as of the most recently completed valuation, as determined
40 by the chief actuary, may request that the board transfer from the

1 contracting agency's employer account excess assets, as determined
2 by the board subject to the requirements and limitations of Section
3 420 of the Internal Revenue Code (26 U.S.C. Sec. 420), to a retiree
4 health account established by the board, in its discretion, in the
5 contracting agency's employer account pursuant to Section 401(h)
6 of the Internal Revenue Code (26 U.S.C. 401(h)) for the purpose
7 of providing health benefits to the contracting agency's retirees
8 and their covered dependents. The board may, in its discretion,
9 transfer excess assets from the contracting agency's employer
10 account to that contracting agency's retiree health account within
11 that agency's employer account, if the transfer meets the conditions
12 of a qualified transfer pursuant to Section 420 of the Internal
13 Revenue Code (26 U.S.C. Sec. 420). The transferred assets shall
14 be used solely for the payment of current retiree health liabilities.
15 That qualified transfer shall be made only once each year. The
16 board may adopt regulations necessary to implement this
17 subdivision. Notwithstanding any other provision of law, the
18 regulations may provide for the nonforfeiture of accrued pension
19 benefits of participants and beneficiaries of a plan from which
20 excess assets are transferred to the extent necessary for the transfer
21 to meet the conditions of a qualified transfer pursuant to Section
22 420 of the Internal Revenue Code (26 U.S.C. Sec. 420), and may
23 include any other provision necessary under Section 420 of the
24 Internal Revenue Code (26 U.S.C. Sec. 420) or Section 401(h) of
25 the Internal Revenue Code (26 U.S.C. Sec. 401(h)) to accomplish
26 the purposes of this subdivision.

27 *(d) On and after January 1, 2006, a transfer of assets may be*
28 *made pursuant to this section and Section 20814.5.*

29 ~~(d)~~

30 *(e) For the purpose of this section, "employer" means any*
31 *contracting agency, the state, or a school employer.*

32 ~~(e)~~

33 *(f) The actuarial report in the annual financial report shall also*
34 *express the effect upon employer contribution rates of this section*
35 *and of the recognition of net unrealized gains and losses.*

36 SEC. 4. Section 31453.7 is added to the Government Code ,
37 to read:

38 31453.7. (a) For the purposes of this section, the following
39 definitions apply:

1 (1) "Actual employer contribution rate" means the actual rate
2 to be paid by the employer as a result of adjustments made to the
3 employer contribution rate by the actuary as provided in this
4 section.

5 (2) "Employer" means the applicable county or district.

6 (3) "Employer contribution rate" means a rate for payment of
7 the total employer contribution, as determined by the system's
8 actuary according to the most recently completed valuation of the
9 total liability for the benefits on the account of the employees of
10 the employer.

11 (4) "Normal cost of benefits" means a rate for payment of
12 normal cost, as determined by the system's actuary according to
13 the most recently completed valuation.

14 (b) Notwithstanding any other provision of law, the employer
15 contribution rate of the county or district shall be adjusted
16 according to the following:

17 (1) If the employer contribution rate is greater than the normal
18 cost of benefits, then the actual employer contribution rate shall
19 be a rate, not less than the normal cost of benefits, and sufficient,
20 when combined with assets transferred from the Taxpayer Adverse
21 Risk Prevention Account established pursuant to subdivision (c),
22 to equal the employer contribution rate.

23 (2) Except as provided in subdivision (d), if the employer
24 contribution rate is less than the normal cost of benefits, the actual
25 employer contribution rate shall be equal to the normal cost of
26 benefits.

27 (c) For the purposes of subdivision (b), a separate account shall
28 be established for each employer in the retirement system to be
29 known as an Taxpayer Adverse Risk Prevention Account.

30 (1) A Taxpayer Adverse Risk Prevention Account is an
31 employer asset, but shall not be counted as part of employer assets
32 for purposes of determining the employer contribution rate.

33 (2) Deposits to a Taxpayer Adverse Risk Prevention Account
34 shall be made with all or a portion of the actual employer
35 contribution rate in excess of the employer contribution rate when
36 the actuarial value of assets exceed the present value of benefits
37 as determined by the system's actuary, according to the most
38 recently completed annual valuation.

39 (3) A Taxpayer Adverse Risk Prevention Account shall be drawn
40 from to pay for that portion of the employer contribution rate that

1 exceeds the actual employer contribution rate, pursuant to
2 paragraph (1) of subdivision (b).

3 (4) The funds in a Taxpayer Adverse Risk Prevention Account
4 may be used to pay for employee contributions picked up by an
5 employer pursuant to Section 414(h)(2) of the Internal Revenue
6 Code (26 U.S.C. Sec. 414).

7 (5) The funds in Taxpayer Adverse Risk Prevention Accounts
8 shall be invested with other assets of the system.

9 (d) Notwithstanding paragraph (2) of subdivision (b), an actual
10 employer contribution rate may be reduced below a rate equal to
11 100 percent of the normal cost of benefits, as specified in paragraph
12 (2) of subdivision (b), pursuant to a formula determined by the
13 system's actuary when that employer's Taxpayer Adverse Risk
14 Prevention Account exceeds an amount equal to 50 percent of the
15 employer assets, other than the assets in the Taxpayer Adverse
16 Risk Prevention Account. That reduction in the actual employer
17 contribution rate shall be reevaluated annually by the system's
18 actuary. The actual employer contribution rate may be increased
19 when the excess of funds in the employer's Taxpayer Adverse
20 Risk Prevention Account no longer exceeds an amount equal to
21 50 percent of the employer assets, other than the assets in the
22 Taxpayer Adverse Risk Prevention Account.